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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|--------------------------------|------------------|
| 09/997,467 | 11/28/2001 | Kazuo Koide | 13711-002001 | 5335 |
| 7590 12/05/2003 | | | | |
| GREGORRY P. EINHORN Fish & Richardson P.C. Suite 500 4350 La Jolla Village Drive San Diego, CA 92122 | | | EXAMINER BISSETT, MELANIE D | |
| | | | ART UNIT 1711 | PAPER NUMBER |

DATE MAILED: 12/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/997,467 | KOIDE ET AL. | |
| | Examiner | Art Unit | |
| | Melanie D. Bissett | 1711 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 16-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 1711

1. The objection to the claims has been maintained for claim 15 but withdrawn for claims 5-14 and 22-23. Also the rejections based on 35 USC 112 have been withdrawn based on the applicant's amendments. The rejections based on 35 USC 103 have been altered.

Claim Objections

2. Claim 15 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from another multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claim 15 has not been further treated on the merits.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-4, 6, and 11-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Gardon.

5. Gardon discloses health care devices including protective gloves, condoms, and tourniquets formed by crosslinking a synthetic latex (abstract). Crosslinking compounds include multifunctional carbodiimides and zirconium complexes (col. 4 lines 11-19).

Thus, the reference teaches the applicant's claimed zirconium compound and organic compound crosslinking agent. The products are formed by dip processing or casting methods, where the crosslinker is dispersed or dissolved in the dipping bath (col. 4 lines 63-66; col. 5 lines 21-31). Gardon specifies that the preferred latex material is a nitrile rubber containing carboxyl functional monomers for providing crosslinking sites (col. 7 lines 36-47). Specific crosslinking agents noted for crosslinking at the carboxyl groups include trifunctional aziridine compounds and tetrafunctional carbodiimide compounds (col. 10 lines 31-36). Also, it is noted that the latex materials may be treated with monoisocyanates or monoepoxy compounds to form self-crosslinking materials (col. 11 lines 39-67). Because the latex materials are cured internally using the crosslinking agents, it is the examiner's position that the latex materials are treated with carboxyl-group blocking agents. Also, because the products have been cured to form dry products useful for applying to human skin, it is the examiner's position that the products show a degree of non-adhesiveness.

6. Regarding claim 14, note that the claim limits only the fingerstall product but does not limit the fingerstall product to be chosen. When the limitation of claim 14 is read into claim 13, the manufacture of a glove or condom still anticipates the claim. The reference teaches the production of glove and condom products. Thus, when these products are chosen, claim 14 is anticipated.

7. Claims 1-2, 8, and 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by B.F. Goodrich. B.F. Goodrich (547,273 A) can be found on the applicant's Form PTO-1449.

8. The reference teaches carboxyl group-containing latex compositions that are crosslinked with amphoteric hydroxide materials (p. 2 lines 1-9). The crosslinking agents are used to internally treat the latex compositions (p. 3 lines 18-24). Crosslinking agents include aluminates (p. 10 lines 7-15), where an example shows the crosslinking of an acrylonitrile-butadiene latex with an aluminate compound in the presence of a surfactant (example 1). Because the latex materials are cured internally using the crosslinking agents, it is the examiner's position that the latex materials are treated with carboxyl-group blocking agents. Also, because the products have been cured to form dry products useful for applying to human skin, it is the examiner's position that the products show a degree of non-adhesiveness.

9. Regarding claim 12, it is the examiner's position that the claim is a product-by-process claim. The reference teaches the formation of latex-impregnated paper (p. 2 line 27-p. 3 line 4). It is the examiner's position that the impregnated product would have the same material features if the paper had been dipped or otherwise impregnated with the latex material. Thus, the reference anticipates the product.

Art Unit: 1711

10. Claims 1-5 and 9-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Lister et al. Lister et al. (US 3,639,298) can be found on the applicant's Form PTO-1449.

11. Lister discloses a flame retardant rubber latex composition comprising a carboxyl-containing latex mixed with a flame retardant additive (col. 1 lines 25-33). Curing agents to be included in the latex are polyamine formaldehyde condensation reaction products, urea-formaldehyde reaction products, and melamine-formaldehyde reaction products (col. 6 lines 52-64). Other crosslinking agents include hydroxides or salts of polyvalent metals (col. 8 lines 15-36). Flame retardant additives include aluminum hydroxide (col. 7 lines 1-6), noted by the applicant as an aluminum inorganic crosslinking agent (p. 22). The flame additive, curing agent, and polymer latex are mixed together and deposited by dipping, coating, or other techniques (col. 8 lines 47-60). Surfactants are added to the latex compositions (examples). Because the latex materials are cured internally using the crosslinking agents, it is the examiner's position that the latex materials are treated with carboxyl-group blocking agents. Also, because the products have been cured to form dry products, it is the examiner's position that the products show a degree of non-adhesiveness.

12. Claims 7 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Varnell.

13. Varnell discloses a surface sizing composition for paper comprising a polymer latex and starch (abstract). The polymer latex comprises the reaction product of an

Art Unit: 1711

alkyl (meth)acrylate monomer, an unsaturated carboxylic acid, and styrene, where methyl methacrylate is noted (col. 3 lines 3-30). A starch sizing agent is included in the composition (col. 4 lines 34-50; examples). Because the products have been reacted to form dry products and shown to be used in a paper product requiring a level of non-adhesiveness, it is the examiner's position that the products show a degree of non-adhesiveness.

Response to Arguments

14. Applicant's arguments with respect to claims 1-15 have been considered but are moot in view of the new ground(s) of rejection.

15. Regarding the applicant's arguments that Gardon does not teach the claimed crosslinking agents, the examiner has pointed to passages in the reference teaching these components. The applicant has not shown how these components do not anticipate the claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie D. Bissett whose telephone number is (703) 308-6539 or (571) 272-1068 after December 2003. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on (703) 308-2462. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.


Application/Control Number: 09/997,467

Page 7

Art Unit: 1711

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

mdb


RABON SERGENT
PRIMARY EXAMINER